

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BES ENTERPRISES, INC.)	Civil Action No. 05-10477-GAO
)	
Plaintiff,)	
)	
v.)	DEFENDANTS' MOTION TO
)	DISMISS OR, IN THE ALTERNATIVE,
)	FOR VENUE TRANSFER
RONY NATANZON, et al.)	<u>PURSUANT TO 28 U.S.C. § 1404(a)</u>
)	
Defendants.)	

Defendants Rony Natanzon, Vered Taylor, and ERN Acquisition, LLC (collectively, "Defendants"), by their undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(1), (2), (3), and (6), and 28 U.S.C. § 1406(a), hereby move for dismissal of this action. In the alternative, Defendants move pursuant to 28 U.S.C. § 1404(a) for transfer of this action to the United States District Court for the District of Maryland (Northern Division at Baltimore).

The grounds for the requested relief, which are set forth in the accompanying Memorandum and Exhibits are that (a) the Complaint fails to state a claim upon which relief can be granted, and venue is improper, because the Plaintiff entered into an enforceable written agreement permitting this action to be brought only in the State of Maryland; (b) even assuming, *arguendo*, that the forum selection agreement were not enforceable (and it is), the Court may not properly exercise personal jurisdiction over these Defendants; and (c) the action fails to state a claim against Defendant ERN Acquisition, LLC for which relief can be granted, because a final Order of the United States Bankruptcy Court of the District of Maryland, bars these claims and ERN Acquisition, LLC has no legal relationship with Plaintiff upon which this suit might be brought.

In the alternative, pursuant to 28 U.S.C. § 1404(a) the action should be transferred to the United States District Court for the Northern District of Maryland at Baltimore for the convenience of the parties and witnesses and in the interests of justice.

Request for Oral Argument

Defendants respectfully request oral argument on this motion.

Respectfully submitted,

RONY NATANZON, VERED TAYLOR and
ERN ACQUISITION, LLC,

By their attorneys,



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Dated: March 21, 2005

LOCAL RULE 7.1 CERTIFICATION

I, Robert B. Levin, counsel for defendants RONY NATANZON, VERED TAYLOR and ERN ACQUISITION, LLC, certify that by telephone on March 16, 2005, I conferred with Brian W. LeClair, Esquire, counsel for plaintiff BES ENTERPRISES, INC., in a good faith effort to resolve or narrow the issues presented by this motion.


Robert B. Levin